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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
Implementation of the Pay Telephone	)	
Reclassification and Compensation	)	**CC Docket No. 96-128**
Provisions of the Telecommunications	)	
Act of 1996	)	

REPLY COMMENTS OF PAGING NETWORK, INC.

PAGING NETWORK, INC.

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SUMMARY

PageNet submits these Reply Comments in an attempt to refocus the Commission's attention on the impact that its decision will have on the 800 subscribers whose interests have been long forgotten in these proceedings. Despite its good intentions, the Commission has gone almost irretrievably off-course in its attempt to adopt a payphone compensation mechanism that achieves a balance of interests and is fair to all of the parties involved.

One of the primary flaws with the Commission's adoption of a market-based approach is that the cornerstone of its decision, i.e., the ability of 800 subscribers to block particular calls, or even particular payphones, based on the rate charged by the payphone provider, has been proven by recent evidence submitted in this proceeding to be non-existent. Without this ability, it is unqualifiedly clear that the 800 subscriber has no leverage with which to exert downward pressure on the rates for calls placed from payphones. It is thus apparent that a market-based approach under a carrier-pays system cannot work. However, one method the FCC could resort to if it concludes that a market-based rate is the most simple and efficient means of setting payphone compensation is calling-party-pays.

A calling-party-pays mechanism would allow for a market rate to be charged because the calling party has the option of seeking out a lower priced payphone, thus exerting pressure on PSPs to charge competitive rates. Moreover, the use of a calling-party-pays approach avoids embroiling the FCC in determining payphone costs and the extent to which commissions paid to location owners should be included in those payphone costs. Finally, calling-party-pays approach can be practically implemented by the FCC's adoption of a unique 8XX NPA code with which a calling-party-pays billing option could be provided.

Moreover, contrary to the arguments of the APCC, there are no appropriate market surrogates other than calling-party-pays. As PageNet demonstrates below, neither 0+ commission levels, nor 0- transfer rates, nor sent-paid toll call surcharges, bear any relationship to subscriber 800 calls. 0+ commission rates include compensation for the right of the IXC to be the default carrier and take into account the substantial difference in the amount of toll revenue generated from 0+ and subscriber 800 calls. In addition, the PSPs admit 0+ commissions are inflated. 0- transfer rates include compensation for operator assistance, whereas subscriber 800 calls do not involve such assistance. Finally, sent-paid toll call surcharges include compensation for the coin mechanism and real-time rating capability, functions not required for placing subscriber 800 calls.

If the Commission decides not to adopt a calling-party-pays approach, it must recognize that subscriber 800 calls are not like either access code calls or local coin calls, and must take this into account when setting the rate for payphone compensation. Subscriber 800 calls and access code calls are different services, and have different usage and cost characteristics. For example, subscriber 800 calls are both shorter in duration and generate substantially less revenue than access code calls. In order to eliminate the unreasonable discrimination that will necessarily result from "per-call" charges from payphones for subscriber 800 calls, PageNet believes that a charge based on a reasonable increment of use would be more appropriate.

PageNet also demonstrates in these Reply Comments that, because of the substantial differences in costs between local coin calls and subscriber 800 calls, a local coin rate is not justified. For example, PageNet demonstrates that commissions to premises owners, which constitute over one-third of the costs of local coin calls, should be excluded. Similarly, coin collection costs should be excluded and a significant fraction of field service/maintenance costs should be kept out of the payphone compensation rate. Furthermore, the payphone interests overstate bad debt expense attributable to subscriber 800 calls. Accordingly, as detailed below, it is abundantly clear that there are substantial differences between the costs of local coin calls and subscriber 800 calls that must be accounted for in setting a fair compensation rate under a cost-based approach.

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REPLY COMMENTS OF PAGING NETWORK, INC.

Paging Network, Inc. ("PageNet"), on behalf of its operating subsidiaries and pursuant to the Public Notice of the Federal Communications Commission ("FCC" or "Commission") released August 5, 1997, hereby files its Reply Comments in the above-captioned proceeding. As set forth below, the record clearly demonstrates that the Commission must rethink its rejection of the "caller pays" model suggested by PageNet and others in the underlying proceeding, as well as consider other "carrier pays" alternatives, such as billing of payphone costs to interexchange carriers ("IXCs") for subscriber 800 services on a per-increment (*e.g.* 6-second) basis rather than per-call basis.

INTRODUCTION

Despite the Commission's good intentions in this remand and the underlying proceeding, the record overwhelmingly demonstrates that this proceeding is almost irretrievably off-course. The 800 subscribers who are having rate increases far in excess of their prior total per-call cost foisted upon them have been long forgotten in the arguments surrounding which cost model to use, and the scope of the technological modifications that will need to be undertaken. The Regional Bell Operating Companies ("RBOCs") do mention the "public," but only in the context of their specious argument that hundreds of thousands of the installed base of payphones will be required to be removed if they do not receive their proposed level of compensation. *See* Comments of the RBOC/GTE/SNET Payphone Coalition ("LEC Coalition") at 14.

PageNet's Reply Comments attempt to refocus the Commission's attention on these 800 subscribers, of whom PageNet is among the largest, in an effort to achieve balance and ultimately fairness in this proceeding. While, clearly, the statute requires that payphone providers receive compensation for their costs in originating subscriber 800 calls, *see* 47 U.S.C. § 276(a)(1), this should neither be done in a manner which overstates their costs, nor done in a manner that accords them more value than a truly competitive payphone market would. The two methodologies which will achieve this balance, and the only two, are caller pays (perhaps with the modifications suggested by AirTouch and elaborated upon here) or, alternatively, a carrier pays model for subscriber 800 calls based on incremental costs of coinless calls, assessed in 6-second increments or other modest time increments for subscriber 800 calls.

The first reason that the proceeding is off course, and certain of the Commission's conclusions in its prior Order now incorrect, is that representations made with respect to the feasibility of call blocking have proven to be fictitious. Among the most important of these representations was that subscribers to 800 services would be able to block particular calls from particular payphones (and that IXCs could/would offer such a service). As set forth in Section I hereto, the opportunity of subscribers to 800 service to block particular calls, or even particular phones, based on the rates charged by the payphone provider for call origination is and will be non-existent. Thus, there can be no market rate if calls are billed to the party who cannot accept or reject particular calls, *i.e.*, the called party.

The second is that the Commission, and the payphone providers, continue to treat subscriber 800 calls and access code calls as identical, when in fact they bear no relation to one another either in the context of costs of origination from a payphone, or in terms of their market value. As PageNet discusses in more detail below, there are, in fact, dispositive cost differences, as well as market differences, between subscriber 800 calls and access codes and, indeed, among 800 services subscribers. The Commission may not treat all subscriber 800 and access code calls similarly when the record demonstrates that all such calls are not similar. Rather, the Commission must establish a framework for regulation that accounts for substantial differences among subscriber 800 calls, and between access code calls and subscriber 800 calls.

The third reason the proceeding is off course is that the Commission has, to date, failed to recognize that both through the means and level of compensation to payphone providers, it is unreasonably disrupting the market for services which use 800 subscriber service as a vehicle to provide other services, *e.g.* paging service, customer service. The Commission cannot ignore the substantial adverse impact on subscribers to 800 services, but rather should balance the impact upon all those affected by the Congressional mandate in as even-handed an approach as possible. Clearly, while ordering payphone compensation, Congress did not instruct the FCC or the payphone providers to trample on the rights of others.

Fourth, the Commission has ignored the fact that the costs of providing subscriber 800 calls from payphones are indeed incremental, and the fact that a caller places a subscriber 800 call from a payphone is purely incidental.

The Commission must fix these problems, and others, in order to make any payphone compensation plan work. PageNet suggests that the Commission this time keep it simple, recognize and balance the equities, and either adopt a called party pays methodology or properly apportion only the additional costs that are incurred through the origination of subscriber 800 calls from payphones.

I. THE COMMISSION SHOULD RECONSIDER, AND ULTIMATELY ADOPT, A FORM OF CALLING PARTY PAYS

A. The Record Demonstrates That The Cornerstone Of The Commission's Calling Party Pays Plan, That Is, The Ability Of 800 Subscribers To Block Specific Calls, Is Non-Existent.

PageNet explained in its Comments and maintains here that, according to the RBOC's own data, per-subscriber and per-call blocking, the foundation upon which the Commission's decision to adopt a market approach rests, is not possible. *See* PageNet Comments at 4-9. As PageNet previously explained, in order for an IXC to block calls on a per-call or per-subscriber basis on behalf of its 800 subscribers,[1] at least two pieces of data are necessary.

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[1] As PageNet discussed in Section II of its Comments, in order for blocking to work properly, such that the party paying compensation can exert market pressure on PSPs to charge competitive rates, it is the subscriber to the 800 service that must be able to choose whether to accept or reject calls from particular payphones. This is so because it is the subscriber to the 800 service that ultimately pays the compensation. As for the desire of 800 subscribers to be given this ability, AT&T and MCI state that their direct experience with customers since the beginning of the new payphone compensation regime is that customers have demanded that a blocking option be (continued...)

First, the IXC needs to receive, on a real-time basis, the two-digit code designating the call as one originating specifically from a payphone (not merely as a call originating from a restricted line).[2] Second, the IXC needs to receive, also on a real-time basis, the price being charged by the PSP.[3] Both of these pieces of data are necessary for blocking to work as a market force that keeps PSPs' rates in check. *See* PageNet Comments at 6-7.[4]

The Comments filed in this proceeding overwhelmingly support PageNet's position. First, APCC acknowledges that "it is physically impossible to modify all LEC switches to send these digits within the time frame currently set forth." APCC Comments at 19. This is consistent with the *ex parte* filing of USTA, in which it states that most LECs are unable to pass the ANI coding digits of 29 and 70, through Flex ANI or any other means.[5] In fact, according to USTA, only about 30,000 of the existing 26,000 LEC end offices are currently

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[1](...continued)
provided. *See* Letter from Robert H. Castellano, Director, Federal Government Affairs, AT&T, to William F. Caton, FCC, CC Docket No. 96-128, dated August 13, 1997 ("*AT&T ex parte*").

[2] Currently, LECs only send the 07 digits, which identifies restricted lines, including not only payphones, but prison payphones and hospital phones, among others. Because it is overbroad, it is not sufficient for purposes of blocking on a real-time basis. What is necessary is the passage of the 27 code (identifying calls from "dumb" payphones), the 29 code (identifying calls from prison payphones), and the 70 code (identifying calls from "smart" payphones).

[3] In order for this to work, there needs to be just one database or rates, kept absolutely current, and free access to that database for the IXCs.

[4] Rather than repeat PageNet's argument in full in this Reply, PageNet incorporates, by reference herein, Section II of its Comments.

[5] Letter from Keith Townsend, Director, Regulatory Affairs & counsel, USTA, to William F. Caton, FCC, CC Docket No. 96-128, dated July 28, 1997 ("*USTA ex parte*").

equipped to provide Flex ANI coding digits. *Id.* at 5. Moreover, AT&T provided the Commission with a letter from BellSouth in which it states that it only intends to provide carriers with the 27 code (for "dumb" phones) and the 07 phone (for restricted lines in general), and that its plans for implementing other ANI coding digits are "on hold." *AT&T ex parte* at 4.

Even if it were possible for LECs to implement the provision of the appropriate ANI coding digits in a timely fashion, it is clearly not economically feasible to do so. USTA has estimated that, in order to replace the existing electromechanical switches, update existing non-equal access switches to equal access, and upgrade all switches with Flex-ANI software, the cost would be approximately $757 million. *USTA ex parte, supra,* at n.5.

Importantly, none of the payphone providers who proposed blocking as the way in which IXCs and their subscribers might gain leverage to negotiate payphone compensation is here suggesting that it can be done in a cost-effective manner, if at all. Rather, the Comments of the LEC Coalition, at 19, merely states that "[c]oalition members will be working with the carriers to attempt to develop a mutually acceptable way of avoiding the imposition of these unnecessary costs [in their view, the unnecessary costs of blocking] on PSPs."

It has also become apparent that, under a carrier party pays scheme, the mechanism under which the rate that the Commission anticipated would be made available on a real-time basis to 800 subscribers, will not be made available. *See* AT&T Comments at 16 (urging the Commission to reject the use of any "market based" compensation scheme that would permit the compensation rate to vary on a phone-by-phone basis). Indeed, no party discussed how this could be done in a manner that gives the 800 subscriber, and thus the IXC, the ability to determine rates from payphones on a real-time basis, and thus to have any influence whatsoever on the rate of payphone use for 800 subscriber or other types of 800 calls.

B. The Only Market Rate Available To The Commission Is One Based On The Calling Party's Willingness To Pay.

The record has made it unqualifiedly clear that the 800 subscriber has no means of putting downward pressure on the rates for calls placed from payphones. The best that the IXC will be even theoretically able to do is offer its 800 subscribers the opportunity to accept all calls from payphones or reject all calls placed from payphones. This clearly is not the "market" envisioned by the Commission when it stated that the called party would be able to extend leverage on the payphone provider by choosing to block particular calls.[6] The called party, such as the 800 subscriber, will have no such choice and, therefore, no such leverage.

There is, however, one method the FCC could resort to if it concludes that a market-based rate is the most simple and efficient means of calling payphone providers compensation, and that is calling party pays.

As PageNet, AirTouch and others make clear in their Comments, the calling party pays model does allow for a market rate to be charged. If the caller does not want to pay whatever the payphone provider desires to charge, that individual will be free to go to another phone. The only circumstance which could affect this result is that in which

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[6] *See e.g., Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Report and Order, 11 FCC Rcd 20541, ¶ 17 (1996) ("*Report and Order*")("If charges are not passed on in this manner, the *called party's* incentives for accepting or declining a *particular call* will be distorted.") [Emphasis added.]

locational monopolies exist, a circumstance which the Commission has already stated it does not believe exists.[7] PageNet is not so convinced, but to the extent the rates ultimately charged for use of the payphone are deemed unreasonable in the future based on locational monopolies, the Commission could cap the rate or otherwise intervene to correct the market imperfections.

Moreover, use of calling party pays avoids embroiling the FCC in determining payphone costs and the extent to which commissions paid to location owners should be included in those payphone costs. As AT&T explains, albeit in the context of illustrating why commissions are not appropriately imbedded in any cost model, if payphone providers are essentially "guaranteed" recovery of their commission costs through the statutory compensation mechanism, "there would be immediate pressure to include higher and higher commissions [to the location owners] within the compensation system which would, in turn, cause spiraling prices for consumers." AT&T Comments at 15. Sprint's Comments make clear, based on the existing plan which guarantees the payphone providers return far in excess of their costs, that this is already occurring. *See* Sprint Comments at 5 (field personnel have reported many instances of [payphone providers] offering to share their Commission-mandated compensation with premises owners.)

Under the calling party pays approach, however, this spiral is not as likely to occur because the calling party will be able to exercise at least some leverage by choosing to place

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[7] *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Order on Reconsideration, 11 FCC Rcd 21233, ¶ 50 (1996) ("*Reconsideration Order*").

calls only at payphones where, for example, the charge to the 800 subscriber is one the calling party is willing to pay.

C. Implementing A Calling-Party-Pays Approach Is Practical.

Earlier in this proceeding, the FCC shied away from a calling-party-pays approach in large part because of a perception that calling parties expect 800 calls to be "free," *i.e.*, there would be no need to place a "coin in the box."[8] However, were the FCC to implement a unique 8XX NPA code, it could provide a calling-party-pays billing option. Specifically, all calls using the 8XX code would be toll-free, but could only be used if the calling party first places the correct coins in the box for payphone compensation. Long distance carriers could thus give "800" subscribers the choice of either billing option -- "carrier pays" or "caller pays".[9] Simultaneously, the major stumbling block to "caller pays" compensation would be removed. By giving 800 subscribers choices in this way, the Commission could create market-based incentives for a more efficient and fair compensation rate.

D. Contrary To The Arguments Of APCC And The LEC Coalition, There Are No Other Appropriate Market Surrogates Than Caller Pays.

APCC and the LEC Coalition argue that the FCC can use other market surrogates. However, for the reasons set forth below, none of the surrogates suggested by these parties are appropriate.

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[8] *Reconsideration Order* at ¶ 88.

[9] Presumably, the rates for 800 service would be higher than for 8XX service to reflect the difference between carrier pays and calling-party-pays, which the IXC would pass onto the subscriber.

1. 0+ Commission Levels Bear No Relationship To Subscriber 800 Calls.

0+ clearly is not an appropriate surrogate for subscriber 800 calls.[10] With respect to 0+ calls, the rate the IXC pays to the PSP includes compensation for the right of that IXC to be the default carrier. In a sense, 0+ is a substitute for marketing to the customer. Being the default carrier gives the IXC access to people who are not already its customer. On the other hand, with respect to subscriber 800 calls, the IXC does not need to compensate the PSP to be the presubscribed carrier; the subscriber 800 number automatically gets carried by the IXC from whom the 800 service was purchased.[11]

Moreover, 0+ calls generally generate an average revenue of $2.50. *See* LEC Coalition Comments, Report of Arthur Andersen, at 8. In sharp contrast, the average revenue from subscriber 800 calls is projected to decline from $0.50 to $0.20 to $0.25 per call.[12] Paging calls generate even less toll revenue, at about $0.025 per call.[13] It is, therefore, obvious that 0+ rates take into account the amount of revenue that the 0+ call

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[10] For similar reasons as set forth herein, PageNet is also of the belief that the 0+ rate is not an appropriate surrogate for access code calls.

[11] The Commission correctly rejected the use of the average of commission rate as a market-based surrogate for subscriber 800 and access code calls. We conclude that the use of Commission data would tend to overcompensate PSPs because these commissions may include compensation for factors other than the use of the payphones, such as the PSP's promotion of the OSP. *Order* at ¶ 69.

[12] *See Ex Parte* Letter from W. Estey, V.P. Government Affairs, AT&T, to William F. Caton, Federal Communications Commission, filed September 13, 1996.

[13] PageNet's own records demonstrate that the average subscriber 800 paging call is approximately 29 seconds in length. The toll charge is $0.05 per minute with 6-second billing increments. Thus, the average toll revenue generated from paging calls is $0.025.

will generate for the IXC. In light of the substantial and numerous differences between 0+ and subscriber 800 calls, there is absolutely no justifiable reason for tying the default rate for subscriber 800 calls to 0+ calls.

In addition to the foregoing, the PSPs admit that interstate 0+ calls are a source of subsidy for virtually all other categories of payphone calls. APCC, in the underlying proceeding, emphasized how 0+ rates are inflated (PSPs choose OSPs with higher rates) so that PSPs can cover their costs (including the cost of paying commissions to location owners). *See e.g.*, APCC Comments, filed July 1, 1996. APCC cannot now turn around and attempt to apply this inflated rate to all payphone calls. If one were to assume, *arguendo*, that the 0+ rate might somehow be used as a surrogate for subscriber 800 calls, PSPs wold first need to account for the revenue increase due to inclusion of additional types of calls, and remove the subsidy from the 0+ rates.

2. 0- Transfer Rates Bear No Relationship To Subscriber 800 Calls.

0- Transfer Rates are not an appropriate surrogate for subscriber 800 calls. 0- Transfer Rates include compensation for operator assistance services. Subscriber 800 calls do not utilize any operator-assisted services for completion of calls. Rather, the customer merely dials the 800 number directly. There is just no comparison. It is clear that APCC is grasping beyond reason in its attempt to convince the Commission that 0- Transfer Rates are an appropriate surrogate for subscriber 800 calls.

3. Sent-Paid Toll Call Surcharges Bear No Relationship To Subscriber 800 Calls.

The last market surrogate proposed by APCC is sent-paid toll call surcharges. However, the surcharges paid by callers with respect to sent-paid toll calls include compensation for more than just the use of a payphone. These surcharges include compensation for the coin mechanism and real-time call rating capability (the ability of the phone to monitor time). For example, rate tables must be built into the phone, and the phone must have the ability to recognize coins dropping, as well as the amount. These mechanisms are not necessary when placing a subscriber 800 call, and 800 subscribers should not be forced to pay compensation based on such costs. It is, therefore, clear that sent-paid toll surcharges are not an appropriate surrogate for subscriber 800 calls.

II. IF THE COMMISSION DOES NOT ADOPT CALLING PARTY PAYS, IT MUST RECOGNIZE IN THE RATES FOR PAYPHONE COMPENSATION THAT SUBSCRIBER 800 CALLS ARE NOT LIKE EITHER 800 ACCESS OR LOCAL COIN CALLS.

A. Subscriber 800 And Access Code Calls Are Not All Similar And Their Use Of The Payphone Cannot Lawfully Be Priced The Same.

The Commission's *Report and Order* set payphone compensation for both access code and subscriber 800 calls at $0.35. *Report and Order* at ¶¶ 70-71. The Commission's *Report and Order* implicitly assumed that all calls within these two categories are sufficiently similar to have the same costs and/or market rate characteristics and thus should be priced the same. However, these assumptions are proven wrong by the record in this proceeding. There are dispositive cost differences, as well as market differences, both between access code and subscriber 800 calls as well as among subscriber 800 calls. The compensation rate must reflect these differences to ensure a reasonable level of compensation. Just as the local coin rate is an inappropriate measure of fair compensation for both access code and subscriber

800 calls,[14] the Commission may not treat all access code and subscriber 800 calls similarly when the record reflects there are substantial differences among such calls.

In the first instance, the Commission must recognize that access code and subscriber 800 calling are two different services, with different usage and cost characteristics. Access code calls provide connections with an IXC who will complete the call and charge either the calling party or another person, based on the calling party's choice. Subscriber 800 calls are placed to the 800 subscriber who agrees in advance to pay on a bulk discount basis.

Moreover, there are multiple 800 services. 800 subscribers represent a vast array of users of telecommunications. Each subscriber's purpose in subscribing to 800 services and the services provided by the underlying subscriber, determines the average call length each subscriber will experience. The average lengths of calls clearly bear no relationship to one another, except by accident.

PageNet, for example, is among the largest users of 800 services in the country. PageNet assigns 800 numbers to its customers. Its average holding time, for the tens of millions of messages it completes for customers each month, is under 30 seconds, including alphanumeric pages and voicemail. PageNet is aware that another large user of 800 services, this time a bank holding company, averages 3.2 minutes per 800 call placed to all of its

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[14] *Illinois Public Telecommunications Association v. Federal Communications Commission*, Nos. 96-1394 *et al* (July 1, 1997)("Illinois").

premises. In this case, the 800 subscribers' customers are checking their account balances, transferring funds among accounts, and engaging in other similar financial transactions.[15]

Access code calls are still longer, averaging about five minutes. Even the APCC recognizes that "[800] [s]ubscriber . . . calls in general tend to be of shorter duration than other long distance calls." While APCC does not indicate how much shorter these calls are, it does indicate that there are a large number of short duration subscriber 800 calls by its statement that compensating payphone providers only for calls in excess of one minute duration "would have a dramatic effect on the number of compensable [800] subscriber . . . calls." APCC Comments, filed July 15, 1996, at 28.

The fact that there are vastly different usage characteristics and thus no appropriate average fairly representative of all subscriber 800 calls, is clearly reflected in the pricing of subscriber 800 services. Subscribers to 800 services pay on an increment-of-time basis, not per call. For example, MCI's service to PageNet is based on 6-second increments, as is service to the banking customer referred to above. PageNet is not aware of any 800 subscriber services that are billed in any increment other than expired time, *e.g.* each six seconds.

The comments in this proceeding explicitly recognize that usage characteristics are important in setting any compensation rate. For example, Peoples argues (in its Comments at 7) that the average duration of a dial-around or access code call, as compared with a local

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[15] Based on PageNet's substantial knowledge of the way paging carriers generally use 800 subscriber services, PageNet believes that other paging carrier's uses, in terms of call duration, will be substantially similar to its own. These call durations do not compare to 800 access code calls which apparently average approximately five minutes apiece.

coin call, (which Peoples claims is almost twice as long as a local coin call), demonstrates that Peoples is entitled to more compensation specifically because of this single usage characteristic -- longer duration.[16] Certainly the converse must be true. PageNet and other 800 subscribers are entitled to be charged rates which reflect their individual called party characteristics, which generally appear on average to be of substantially shorter duration than subscriber access code calls.

Moreover, as the LEC Coalition admits, the Commission must take into account the amount of revenue which 800 calls generate. The LEC Coalition, in supporting AT&T's recognition that it may be appropriate to treat 800 subscriber code calls differently than 800 access code calls, explains that "it is one thing to require a carrier to pay a dollar or more for calls that, like access code calls, generate an average $2.16 in revenues. It is quite another to impose a $1.00 charge on subscriber 800 calls which, according to AT&T, on average generate less than $0.50 in revenues each." RBOC Coalition Comments at 25-26.[17]

PageNet's charges from its 800 carriers for its 800 service are a small fraction of the average 800 subscriber revenue AT&T reports. PageNet reasonably pays only for the costs it incurs in the receipt of short calls, not for some hypothetical average length of call among all 800 subscribers. This results in PageNet and other similarly situated paging carriers paying an average of perhaps $.04 per call to the 800 carrier. (This assumes $.08 per

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[16] Implicitly, People's here admits that payphone compensation does not and, in fact, should not be based on a flat rate per call.

[17] The LEC Coalition relied on AT&T 1995 800 subscriber data, which was adjusted downward in 1996.

minute at all times of day, although PageNet's actual rate is based on 6-second increments which yield a rate in that range.)

In order to eliminate the unreasonable discrimination that will necessarily result from "per-call" charges from payphones for subscriber 800 calls, PageNet believes that a charge based on a reasonable increment of use would be more appropriate.[18] In this regard, PageNet suggests 6-second increments, but not more than per-minute increments, out of its understanding that this is the predominant way in which 800 subscriber services are charged to 800 subscribers. As discussed above, it also takes into account the fact that 800 subscriber services are put to vastly different uses and that rate practices that fail to account for those differences will unreasonably discriminate against those subscribers who use it for shorter periods of time than others.[19]

B. A Local Coin Rate For Subscriber 800 Calls Is Not Justified Because There Are Substantial Differences In The Costs Of Local Coin Calls And Subscriber 800 Calls.

Several proponents of a market-based approach to payphone compensation contend that there are few differences, none of them material, between the average costs incurred by a PSP in completing a local coin call and the average costs incurred by originating an 800

[18] Although the only thing that 800 subscribers to whom the payphone charge would apply have in common is that a call to their 800 number is placed from a payphone, these services are not "like services" within the meaning of that term. As discussed above, they make substantially different uses of the payphone in terms of duration, and thus the rate for the payphone must be priced to reflect those differences.

[19] This circumstance is vastly different than those in which rates can presumably be based upon average use. In those circumstances where it could be permissible, the subscribers' call lengths might vary, but the average of all of each subscriber's calls would be in a range which was similar to other subscribers. This is decidedly not the case with 800 subscribers.

subscriber call at a payphone.[20] These parties contend that, at most, the difference in cost between a local coin call and an 800 subscriber call is only a few pennies, approximately 10% of the local coin call rate or less. Indeed, the LEC Coalition asserts that, if an avoided cost methodology were to be used to determine a payphone compensation rate for subscriber 800 calls -- with the deregulated local coin rate as the starting point for the analysis -- the final compensation rate would exceed the coin rate.[21] Peoples, APCC, and the LEC Coalition, taken together, argue that the only costs incurred when placing a coin call that should potentially be excluded when determining the payphone compensation rate are those related to coin collection activities and a small fraction of local usage charges.[22]

As shown in the remainder of this section, these parties severely underestimate the differences between subscriber 800 calls and local coin calls, which are substantial. Commissions to premises owners, which constitute over one-third of the costs of local coin calls, should be excluded from the compensation rate.[23] Moreover, for the reasons stated

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[20] *See, e.g.*, Comments of People's at 10-13; Comments of APCC at 11-15. PageNet discusses here the differences in costs between local coin calls and 800 subscriber calls. However, its discussion is generally applicable to the differences between local coin calls and access code calls as well.

[21] Comments of LEC Coalition at 15-20. The LEC Coalition argues that the Commission should include costs of $0.07 to $0.08 per call to account for ANI technology that MCI and AT&T have asserted is necessary to implement a per-call compensation rate. However, the *Reconsideration Order* specifically states that "LECs must make available *to PSPs, on a tariffed basis*, such coding digits as part of the ANI for each payphone." [emphasis added.] Therefore, PSPs, not carriers, must pay for delivery of the necessary ANI identification digits. *See AT&T ex parte* at 5.

[22] *See, e.g.*, Comments of LEC Coalition at 15-16.

[23] *See* Comments of Peoples at 10.

below, the entire cost of line charges -- not just a few cents per call -- should not be recovered through the payphone compensation rate.

In addition to coin collection costs, which should be excluded, a significant fraction of field service and maintenance costs should be kept out of the payphone compensation rate, as AT&T demonstrates. Furthermore, the payphone interests overstate billing costs and bad debt expense that should be attributable to subscriber 800 calls. Finally, these parties fail to exclude substantial costs that are part of the capital expenditure of payphone equipment and installation that solely are attributable to local coin calls. Accordingly, as detailed below, it is abundantly clear that there are substantial differences between the costs of local coin calls and subscriber 800 calls that must be accounted for in setting a fair compensation rate.

To properly account for these differences, the Commission should, as explained below, set the compensation rate at the incremental cost for subscriber 800 calls. There is no justification for using an avoided cost methodology with a market-based coin rate as the starting point. There simply is no evidence in the record that there is any relationship between the local coin rate in deregulated markets and local coin costs, let alone between such a rate and the costs incurred by a payphone provider to originate an 800 subscriber call.

1. Premises Owners' Commissions.

Commissions to location owners which, according to Peoples, is its "largest cost category," and constitute approximately 38% of Peoples' direct costs for placing 800 subscriber and access code calls, *see* Peoples' Comments at 10, have no place in these calculations. Commissions are paid to location owners based primarily on revenues from 0+ calls made from payphones. These costs are not associated with the placement of subscriber

800 calls, which are not commissionable calls, and therefore should not be included in the costs attributed to subscriber 800 calls.[24]

An additional problem with the inclusion of commissions in the calculation of costs attributable to subscriber 800 calls is that commission levels paid to location owners have been driven to excessively high levels. PSPs compete for locations by seeking out OSPs with very high rates (and thus high 0+ commissions paid to them by the presubscribed IXC), enabling them to pay location owners excessively high commissions.[25] PSPs now want to include commissions to premises owners as costs for placing 800 subscriber and access code calls (which, as noted above, is not appropriate in the first place). However, because these costs have historically been inflated, and have been recovered through revenue streams from similarly inflated OSP commissions, the result would be either over-recovery of such costs by the PSPs, or another unwarranted increase in the actual commissions paid to premises owners (arrived at not through preexisting market forces, but rather as a result of the FCC setting compensation at above-cost rates). In other words, the guaranteed recovery of PSPs' commission costs through an FCC mandated compensation mechanism would result in an upward pressure on payphone commissions paid to location owners. In the long run, it is the consumers who will pay in the form of higher prices.

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[24] The same rationale would apply to the exclusion of commissions from the payphone compensation assessed on access code calls.

[25] This, in turn, allows OSPs to justify the high toll rates charges to consumers. IN this manner, the high commission costs are passed through in rates charged to consumers for toll calls using the presubscribed IXC.